

CITY OF KELOWNA

BYLAW NO. 8660

BC Gas Loan Authorization Bylaw

WHEREAS BC Gas Utility Ltd. ("BCGU") currently distributes and delivers natural gas in the City of Kelowna through its natural gas distribution system under the terms of a Franchise Agreement between the City of Kelowna and BCGU:

AND WHEREAS the current Franchise Agreement provides the City of Kelowna with an option to "buy-out" the existing natural gas distribution system within the boundaries of the City of Kelowna;

AND WHEREAS BCGU has expressed a desire to have the "buy-out" provision removed from a renewal of the Franchise Agreement as such "buy-out" provision represents a source of future uncertainty for BCGU;

AND WHEREAS the City of Kelowna believes it has a fiduciary duty to protect the City's assets and to realize optimum potential from the contractual rights of an asset if the rights are going to lapse or be divested;

AND WHEREAS the City of Kelowna has entered into agreements with BCGU for the capital lease and operation leaseback of the said natural gas distribution system;

AND WHEREAS the value of the City of Kelowna's rights in the capital lease is Fifty Million Dollars (\$50,000,000.00);

AND WHEREAS the City of Kelowna, under the terms of the capital lease, has the right to prepay 95% of the annual rent payable for the value of the City of Kelowna's rights in the natural gas distribution system;

AND WHEREAS the value of the prepaid rent due under the capital lease is the sum of Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000.00);

AND WHEREAS an additional One Million Eight Hundred Thousand Dollars (\$1,800,000.00) is required to cover the financing costs and costs of developing the agreements;

AND WHEREAS the maximum term of a debt that may be authorized by this bylaw is seventeen (17) years;

AND WHEREAS the Council has provided a counter petition opportunity in relation to the proposed Loan Authorization Bylaw;

AND WHEREAS the approval of the Inspector of Municipalities has been obtained;

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NOW THEREFORE, the Municipal Council of the City of Kelowna, in open meeting assembled, enacts as follows:

1. The Council exercises the right of the City of Kelowna to prepay the rent due under the terms of the Capital Lease to BCGU for the natural gas distribution system.
2. The Council is hereby authorized to borrow upon the credit of the City of Kelowna, a sum not to exceed Forty-Nine Million Three Hundred Thousand Dollars (\$49,300,000.00) for the purpose of prepaying the rent payable under the terms of the Capital Lease to BCGU as authorized by City of Kelowna BC Gas Agreements Authorization Bylaw No. 8661.
3. This bylaw shall take effect on the date of its adoption by Council.
4. This bylaw may be cited for all purposes as "BC Gas Loan Authorization Bylaw No. 8660".

Read a first, second and third time by the Municipal Council this 11th day of June, 2001.

Received the Approval of the Inspector of Municipalities this

Adopted by the Municipal Council of the City of Kelowna this

Mayor

City Clerk